

1 Mark Mausert  
2 NV Bar No. 2398  
3 729 Evans Avenue  
4 Reno, NV 89512  
5 (775) 786-5477  
6 Fax (775) 786-9658  
7 mark@markmausertlaw.com  
8 *Attorney for Plaintiff*

9 **IN THE UNITED STATES DISTRICT COURT**  
10 **IN AND FOR THE DISTRICT OF NEVADA**

11 JENNI CROSBY,

Case No.:

12 Plaintiff,

13 vs.

**COMPLAINT AND JURY DEMAND**

14 I C.A.N. FOODS INCORPORATED,

15 Defendant  
16 \_\_\_\_\_/

17 COMES NOW plaintiff, through counsel, and hereby complains of defendant as  
18 follows:  
19

20 Jurisdiction, Venue & Jury Demand

21 1. Plaintiff is a woman who is a resident of northern Nevada, i.e., Winnemucca,  
22 Nevada, and who commenced working for defendant in May of 2016, and who was terminated  
23 from defendant's employ on or about August 22, 2020. All, or almost all, acts, statements and  
24 omissions herein alleged occurred in northern Nevada, i.e., in Winnemucca, where at plaintiff  
25 was previously employed by defendant. Plaintiff has obtained a Notice of Right to Sue from  
26 the Equal Employment Opportunity Commission. This Notice was issued on August 2, 2021.  
27 This Notice is attached hereto and incorporated in this Complaint and Jury Demand. This  
28 Complaint and Jury Demand and is incorporate herein. This Complaint and Jury Demand is

1 timely filed in accord therewith. Plaintiff hereby requests a jury trial relative to all issues so  
2 triable.

3 2. Defendant is a corporation, partnership, limited liability company, or some other  
4 entity, which plaintiff believes is recognized under the laws of the State of Nevada. At all  
5 times herein mentioned defendant had at least fifteen full-time employees working at least  
6 twenty weeks per year.

7 3. This Court has subject matter jurisdiction over this case per 28 U.S.C. 1343. The  
8 Court has subject matter jurisdiction because plaintiff is a woman who is alleging she was  
9 subject to a hostile work environment “because of sex” and retaliation because she opposed  
10 sexual harassment, in violation of 42 U.S.C. 2000e, et seq.

11 4. This Court has venue re this action pursuant to 42 U.S.C. 2000e-5(f)(3) because all,  
12 or almost all of the actions, statements and omissions which form the basis for this lawsuit  
13 occurred in northern Nevada, i.e., in the geographical area of this judicial District.

14 First Cause of Action

15 (Sexual Harassment)

16 5. Plaintiff hereby incorporates the allegations of paragraphs 1 through 4, inclusive, as  
17 well as all other paragraphs herein, as though the same had been fully stated.

18 6. Plaintiff was employed by defendant in Winnemucca, Nevada, from approximately  
19 May of 2016 until August 22, 2020, in the capacity of a waitress. Throughout almost the  
20 entirety of her employment plaintiff was subjected to a sexually hostile work environment –  
21 one which a reasonable, hypothetical woman would have found to be offensive “because of  
22 sex”. Plaintiff subjectively perceived and experienced the work environment to be offensive  
23 “because of sex”. Plaintiff’s work environment was rendered hostile because of sex as the  
24 result of a repertoire of statements and conduct which included, but was not necessarily limited  
25 to the following: Sexual statements by General Manager, Sugey Salgado, e.g., statements about  
26 male genitalia; group texts, sent by General Manager Salgado which depicted male genitalia;  
27  
28

1 individual texts, directed at plaintiff of the same sort; open displays of inappropriate sexual  
2 intimacy, e.g., kissing, with another employee, by General Manager Salgado; etc. The  
3 complained-of conduct was sufficient severe, pervasive and frequent as to cause the work  
4 environment to be permeated with hostile sexuality to the point at which the terms and  
5 conditions of plaintiff's employment were adversely altered.

6 7. Plaintiff repeatedly complained of the sexual hostile character of her work  
7 environment to another of defendant's managers, Front House Manager, Vanessa Coffee.  
8 Defendant did not promulgate an effective sexual harassment policy or maintain a reasonable  
9 reporting system. Plaintiff's complaints were ignored and the work environment deteriorated.

10 8. As a direct and proximate result of being subject to a sexually hostile work  
11 environment plaintiff suffered loss of enjoyment of life, emotional distress, embarrassment and  
12 humiliation, feelings of anger and helplessness, and fear and intimidation. It has been  
13 necessary for plaintiff to incur costs and retain counsel in order to seek to vindicate her right to  
14 a workplace free of hostile sexuality.

## 15 16 17 Second Cause of Action

### 18 (Retaliation)

19 9. Plaintiff hereby incorporates the allegations of paragraphs 1 through 8 as though the  
20 same were full stated herein.

21 10. Defendant terminated plaintiff in order to retaliate against her for her opposition to  
22 sexual harassment.

23 11. Any diminution or deficiency in plaintiff's work performance was directly and  
24 proximately caused by the sexual hostility and/or retaliatory hostility defendant allowed to  
25 permeate its work environment and defendant is therefore estopped from relying upon such as a  
26 basis for terminating plaintiff's employment.

27 12. As a direct and proximate result of being subject to retaliation plaintiff lost wages  
28

1 and benefits and otherwise suffered as alleged herein.

2  
3 WHEREFORE, plaintiff requests the following relief:

- 4 1. For an award of compensatory damages;
- 5 2. For an award of punitive damages sufficient to punish and deter defendant from
- 6 engaging in similar conduct;
- 7 3. For an award of special or actual economic damages, according to proof;
- 8 4. For an award of costs and a reasonable attorney's fee; and
- 9 5. For injunctive relief to compel defendant to adopt and actually enforce a reasonable
- 10 policy against sexual harassment and/or retaliation, and for whatever other relief the Court or
- 11 jury may deem just.

12 DATED this 15th day of September, 2021.

13  
14 /s/ Mark Mausert  
15 Mark Mausert  
16 NV Bar No. 2398  
17 729 Evans Avenue  
18 Reno, NV 89512  
19 TELEPHONE: (775) 786-5477  
20 FACSIMILE: (775) 786-9658  
21 *Attorney for Plaintiff*  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**INDEX OF EXHIBITS**

08/02/2021 Issued Notice of Right to Sue.....Exhibit 1